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July 9, 2024

Via ECF

MEMO ENDORSED

The Honorable Katherine Polk Failla
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

**Re: *United States of America v. Gaurav Dhingra*, 22-CR-180 (KPF)
Request for Pre-Sentencing Conference**

Dear Judge Failla:

We represent Defendant Gaurav Dhingra in the above-referenced matter. For the reasons below, we write to respectfully request that the Court convene a pre-sentencing conference with Mr. Dhingra and the parties in the weeks leading up to Mr. Dhingra's September 10, 2024, sentencing. The government has indicated that it takes no position on this request.

Pre-sentencing conferences were commonplace for District Judges in the Southern and Eastern Districts as late as the 1980's, before the promulgation of the U.S. Sentencing Guidelines. We understand, for example, that Judge Vincent L. Broderick held pre-sentencing conferences in every criminal case. Based on our conversations with his former clerks, these would typically consist of an on-the-record conference held in the robing room with the defendant and counsel, the government, and Pretrial Services, in which Judge Broderick had the chance to speak directly with the defendant and, to the extent necessary, ask the parties questions that had not been fully or adequately answered in the Presentence Investigation Report and the parties' sentencing briefing.

We believe that such a conference would be particularly helpful here because, due to the nature of this case, as well as to Mr. Dhingra's (until recently) nonresident status, the only time at which Your Honor will have been in the same room as Mr. Dhingra before the Court passes sentence in September was his February 9, 2024, presentment and plea. And while we will work diligently to equip the Court with the relevant facts in our sentencing memorandum before that time, we feel, as Judge Broderick and others on the bench did, that at least one face-to-face conversation between sentencing judge and defendant can helpfully inform the judge's decision-making process in ways that the papers necessarily could not.

Significantly, judges in this courthouse have a long tradition of using their procedural discretion to reach the most just and equitable outcome in criminal sentencing. Even after the

introduction of the Sentencing Guidelines, the late Judge Robert W. Sweet, for example, used to distribute a draft sentencing order two weeks before sentencing as a way to show the parties how he was thinking about the case, and to give them the chance to formulate arguments for the sentencing hearing. What we are asking for here is part of this same tradition.

With that in mind, we respectfully request that the Court schedule an on-the-record pre-sentencing conference with Mr. Dhingra, the government, and Pretrial Services at a convenient time before Mr. Dhingra's September 10, 2024, sentencing. We appreciate the Court's consideration of this request and are available at the Court's convenience to discuss any matter relating to it.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Priya Chaudhry', enclosed within a large, loopy oval shape.

Priya Chaudhry

Cc: AUSA Patrick Moroney

The Court is in receipt of defense counsel's request for a pre-sentencing conference. (Dkt. #32). While the Court values opportunities for face-to-face conversation between the Judge and Defendant, this Court's sentencing practices include an extensive sentencing proceeding that provides both the Court and the parties with significant time to engage in substantive conversation and argument regarding the parties' written and oral sentencing submissions. It is also the Court's practice to take a break following the initial part of the proceeding to reflect on the arguments presented prior to imposing a sentence. Accordingly, Defendant's application is DENIED.

The Clerk of Court is directed to terminate the pending motion at docket number 32.

Dated: July 10, 2024
New York, New York

SO ORDERED.

A handwritten signature in blue ink, appearing to be 'Katherine Polk Failla', written in a cursive style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE